

## EXHIBIT 3



**HOOPA VALLEY TRIBAL COUNCIL**

Hoopa Valley Tribe  
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Chairman Byron Nelson, Jr.

February 4, 2021

The Honorable Deb Haaland  
Secretary Designate  
U.S. Department of the Interior  
1849 C Street, NW  
Washington, D.C. 20240

**Re: Stay of agency proceedings pending environmental impact review**

Dear Secretary-Designate Haaland:

President Biden's Executive Order on Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis, issued January 20, 2021, (Health and Environment EO), requires the Department to stay proceedings in pending department decisions promulgated between January 20, 2017, and January 20, 2021, in order to provide an opportunity for new Agency leadership to review the underlying rule or matter. See Health and Environment EO at Section 2; see also Memorandum for the Heads of Executive Departments and Agencies: Regulatory Freeze Pending Review, January 20, 2021. Four matters should be reviewed pursuant to these Orders:

1. Our January 5, 2021 letter ([copy attached](#)) (<https://bit.ly/2MzcVeF>) asked that you act concerning the Tribe's suit to block new federal water contracts for California's Central Valley Project (CVP) that violate laws passed to protect our fishing rights and restore California natural resources devastated by irrigation and power development. To our dismay, the federal court that has jurisdiction over our reservation and rights granted the Trump Administration's request to move our case to Fresno where the water contractors reside. Our suit claims that the Trump administration rewrote CVP water contracts to override, evade and violate our property rights and environmental protections guaranteed by the Central Valley Project Improvement Act (CVPIA), the WIIN Act, and other federal laws and reclamation policy. In addition, the Trump Administration contracts would shift hundreds of millions of dollars in environmental restoration costs from water contractors to the U.S. taxpayer. We have developed substantial evidence that the Trump Administration took action in the course of its administration, including during the final months before President Biden's inauguration, that violates numerous laws and policies affecting our rights. We request an opportunity to confer with you and your staff, in consultation with the Department of Justice, about staying the Tribe's suit to set aside the water contracts and considering the alternative of settlement. Our goal is to have new contracts under which the contractors are specifically bound to honor our rights under the law of the Trinity River, and pay for the restoration of our fishery as is required by the CVPIA.

2. On January 19, 2021, outgoing Secretary Bernhardt concurred in a January 14, 2021 memo Re: CVPIA Completion under Section 3407(d)(2)(A) and its associated supporting documents. ([Copies attached](#)) (<https://bit.ly/36FtSL5>). These documents should be withdrawn and rescinded. The Secretary concluded that the analysis of what constitutes completion of the

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actions required under section 3406 of the CVPIA contained in a 2009 CVPIA Program Activity Report was flawed and that the more appropriate analysis is described in the January 14, 2021 Associate Solicitor's memorandum. Significantly, the Secretary acknowledged that the Refuge Water Supply Program was not complete. By the terms of the CVPIA, that admission alone precludes the Secretary from making a completion declaration. Among other things, the Trump Administration's 11<sup>th</sup> hour action will drastically reduce payments into the Central Valley Restoration Fund, which is critical to restoration of our fisheries and environmental protection in California.

3. The Bureau of Reclamation's Business Practice Guidelines, currently pending at OMB's Office of Information and Regulatory Affairs as No. 1006-ZA02 - Business Practice Guidelines for Central Valley Project Improvement Act Receipts, Program Accounting, Cost Allocation and Cost Recovery, relate to both the unlawful new federal water service contracts issued under the WIIN Act, which are subject to our lawsuit, and the January 19, 2021 determination that CVPIA restoration activities have been "completed" and should no longer be funded by contractors. The Guidelines should be rewritten on the basis of legal and trust issues regarding matters #1 and #2 above. Hoopa's comments on the draft Guidelines are [attached](https://bit.ly/3cJ4F6G) (<https://bit.ly/3cJ4F6G>). The Tribe's detailed analysis of CVPIA financing in the context of a report of the Department's Inspector General that the Bureau of Reclamation has acted to the detriment of the Tribe's interest and the financial integrity of the statutory mandate will be provided separately in the immediate future.

4. The Bureau of Reclamation's Klamath Irrigation Project was also drastically modified by the outgoing Administration in a January 16, 2021 letter of Secretary Bernhardt and related documents. The result of actions by Mr. Bernhardt and Solicitor Jorjani is to subordinate the senior water rights of the Klamath Basin tribes and narrow protections for endangered fish in Upper Klamath Lake and the Klamath River. Those actions should be reviewed and reversed. The letter, the Reassessment, the memorandum re Use of Water Previously Stored in Priority for Satisfaction of Downstream Rights, and the memorandum analyzing Klamath Project water service contracts [are attached](https://bit.ly/3q2BcrO) (<https://bit.ly/3q2BcrO>). All should be rescinded.

Thank you for considering these requests.

Sincerely yours,

HOOPA VALLEY TRIBAL COUNCIL

A handwritten signature in black ink, appearing to read "Byron Nelson, Jr.", with a stylized flourish at the end.

Byron Nelson, Jr., Chairman

cc. Sen. Feinstein  
Rep. Huffman  
Ernest Conant, Bureau of Reclamation, Regional Director  
Amy Dutschke, Bureau of Indian Affairs, Regional Director